

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Joshua E. Imborek,**  
Appellant,

**v.**

**City of Davenport Board of Review,**  
Appellee.

**ORDER**

**Docket No. 14-103-0212**  
**Parcel No. C0034-22**

On December 4, 2014, the above-captioned appeal came on for telephone hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Joshua E. Imborek was self-represented. The Board of Review designated City Attorney Tom Warner as its legal representative and he represented it at hearing. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Joshua E. Imborek, owner of property located at 2406 LeClaire Street, Davenport, Iowa, appeals from the City of Davenport Board of Review decision reassessing his property. According to the property record card, the subject property consists of a two-story, single-family dwelling with 2580 square feet of living area and a full basement with 544 square-feet of finish. It also has a 420 square-foot attached garage, a deck, and an open porch. The improvements were built in 1930. The dwelling has a high quality grade (3+00) and is listed in normal condition. Its site is 0.246-acres.

The real estate was classified residential on the initial assessment of January 1, 2014, and valued at \$184,800, representing \$29,920 in land value and \$154,880 in improvement value. The property was reassessed in 2014, making all grounds of protest available. Imborek protested to the Board of Review on the grounds that the property assessment was not equitable as compared to like

properties in the taxing jurisdiction Iowa Code section 441.37(1)(a)(1)(a), and that there was an error in the assessment under section 441.37(1)(a)(1)(d). Imborek's error claim is essentially one of over-assessment under section 441.37(1)(a)(1)(b). The Board of Review granted the protest, in part, and reduced the assessment to \$178,610, allocated \$29,920 to land value and \$148,690 to improvement value.

Imborek then filed his appeal with this Board and urged the same grounds. He claims \$150,000 is the actual value and fair assessment of the subject property.

Imborek purchased his dwelling in October 2009 for \$117,900 after a foreclosure. A spreadsheet in the record indicates the previous owner of Imborek's property paid \$154,900 in 2003. However, the property record card shows the prior purchase was for \$188,054 in February 2008. Imborek is a carpenter and remodeled the property after his purchase. He testified the basement finish was wet and moldy when he purchased the property, but this has since been remediated.

The only evidence Imborek provided to support his equity claim was a list of four properties and their assessed value on his Board of Review petition. No other information was provided regarding these properties. We give this evidence no consideration.

Imborek submitted two pages of an April 2013 appraisal. It identified properties of similar age as the subject property with sale prices ranging from \$130,900 to \$160,000, or \$52.40 to \$78.82 per-square-foot. The comparable sales occurred between September 2012 and March 2013, and were adjusted for site, condition, living area, basement size and finish, garages, and other amenities. The adjusted sale prices were \$138,600 to \$157,300. The appraiser concluded a \$148,000 value for the subject property. We were unable to review the complete appraisal, and it sets a value eight months prior to the January 1, 2014, assessment date. Therefore, we give this evidence limited consideration.

Deputy Assessor Brett Loving explained the subject property is located near Vander Veer Botanical Park, an area of older, high quality homes. Loving reported that he inspected the interior of

the dwelling in 2010 before it was the remodeled. The assessor assumed the remodeling was complete, but had difficulty arranging an interior inspection with Imborek so he estimated the renovated kitchen. Loving also removed the 40% functional obsolescence adjustment which resulted in an increased assessment. The 2014 increase was also due to the 544 square feet of basement finish noted on the 2013 appraisal being added to the assessment.

Commenting on the appraisal, Loving testified that although the comparable at 104 E Central Park Ave sold for \$130,900 in September 2012, it was appraised at the time for \$161,500. He reported it had sold for \$168,000 in 2008 and resold for \$169,040 in 2014. A spreadsheet in the record compared five comparable sales from March 2012 to October 2013 selected by the assessor. The sales prices ranged from \$165,000 to \$207,000, or \$72.50 to \$82.80 per-square-foot. The subject property is assessed at \$69.23 per-square-foot, which is below the lower end of the sale price range. The sale properties were adjusted for differences in site, living area, basement, and other features. This analysis yields an indicated value for the subject property of \$178,604. The adjustments appear to be cost based and not market adjustments, therefore, we give it limited consideration.

### ***Conclusions of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

*Id.* at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied.

Imborek listed four properties for equity comparison. He provided only the street address and the assessed value of each. He did not provide any detailed information on these properties and we are uncertain if any are recent sales. It is necessary to have sale prices and assessments to develop an assessment/sales ratio or complete an equity analysis contemplated by *Maxwell*. Ultimately, Imbroek did not prove by a preponderance of the evidence that his property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

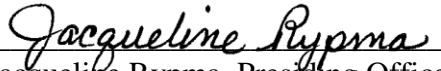
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). While Imborek provided two pages of an April 2013 appraisal, he did not provide the entire document for our review. In Loving's opinion, one of the comparable sales in the appraisal sold below market for a price that was inconsistent with two other sales of that property. Further, the appraisal was completed eight months prior to the assessment date. Conversely, the Board of Review submitted adjusted sales data that supports the current assessed value.

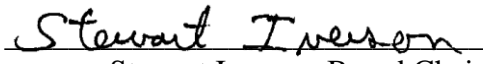
Lastly, we note, Imborek purchased the property as a foreclosure making the sale price an unreliable indication of value without adjustment to remove the distorting effect of the distress sale. Iowa Code section 441.21.

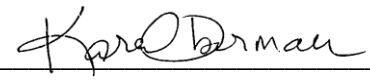
Ultimately, Imborek's evidence did not establish the fair market value of his property as of January 1, 2014. Therefore, we find a preponderance of the evidence does not prove his property is inequitably assessed or over-assessed.

THE APPEAL BOARD ORDERS that the January 1, 2014, assessment as determined by the City of Davenport Board of Review is affirmed.

Dated this 8th day of January, 2015.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

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